

TITLE 10 INSURANCE COMMISSIONER NOTICE OF PROPOSED RULEMAKING

The Commissioner of Insurance proposed to adopt the regulations described below after considering public comments, objections, or recommendations.

PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt new sections 2581.1, 2581.2, 2581.3, and 2581.4, Article 17.2, Subchapter 3, Chapter 5, Title 10, California Code of Regulations. The regulations, which are required by section 10236.12 of the California Insurance Code, will require confidentiality by independent actuaries hired by the Department to review long-term care insurance rate filings, and will require such actuaries to avoid conflicts of interest.

PUBLIC HEARING

No public hearing has been scheduled on the proposed action. A public hearing will be held, however, if the Commissioner receives a written request for one from an interested person no later than 15 days prior to close of the written comment period. The purpose of such a hearing, if held, would be solely to address merits of the proposed regulations.

WRITTEN COMMENT PERIOD

Any interested person may submit to the Commissioner written comments relevant to the proposed regulations. The comment period closes at 5:00 p.m., August 6, 2001. All comments must be received by then. Send comments to:

California Department of Insurance
Attention: Caitlin Smith
45 Fremont Street, 24th Floor
San Francisco, CA 94105
FAX: (415) 904-5729
smithc@insurance.ca.gov

AUTHORITY AND REFERENCE

Authority: This action is being taken pursuant to authority vested in the Commissioner of Insurance by California Insurance Code Sections 790.10, 12996, Article 6, and Section 10236.12.

Reference: Article 4 and Section 10236.12 of the California Insurance Code.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The proposed regulations are required by Section 10236.12 of the California Insurance Code. That statute directed the Commissioner to require independent actuaries retained by the Department to maintain confidentiality in the course of reviewing long-term care insurance rate filings and to avoid conflicts of interest.

No regulations or laws exist that relate to the proposed regulations. The effect of the proposed regulations will be to require independent actuaries hired by the Department to review long-term

insurance rates to sign declarations stating that these actuaries will adhere to certain professional standards regarding confidentiality and conflicts of interest. The broad objectives of the proposed regulations are to require confidentiality and conflict of interest practices by independent actuaries hired by the Department to review long-term care insurance rates.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any State agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary costs or savings imposed upon local agencies: None

Cost or savings in Federal funding to the State: None

Cost impacts on representative private persons or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Significant statewide adverse economic impact directly affecting business, including the ability of California Businesses to compete with businesses in other States: The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Assessment: Adoption of the proposed regulations may create jobs in the private sector for actuaries with 5 years relevant experience in long-term care insurance industry pricing. The regulations will not eliminate jobs in California. It is not likely that the regulations will create new businesses, but may expand existing actuarial businesses by creating work for actuaries with 5 years relevant experience in long-term care pricing. The proposed regulations will not eliminate existing businesses.

Significant effect on housing costs: None

CONSIDERATION OF ALTERNATIVES

Pursuant to Government Code Section 11346.5(a)(13), the Commissioner must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose of the proposed regulations, and that no alternative would be as effective or less burdensome to private persons or businesses directly affected than these regulations.

CONTACT PERSON

Inquiries concerning the proposed regulations and requests for copies of the proposed text, the initial state of reasons, the modified text, if any, or other information upon which the rulemaking is based should be directed to Emmie Ponce, at the address and FAX indicated above, or by telephone at (415) 538-4103. Inquiries concerning the interested parties list should be directed to Amy Ramirez at the

address and FAX above, or by telephone at (415) 538-4155. The backup contact person and the person designated to respond to the substance of the regulations is Caitlin Smith, who may be contacted at the address and FAX above, or by telephone at (415) 538-4411.

FINAL STATEMENT OF REASONS

When available, a copy of the Final Statement of Reasons can be obtained on the Department's Web site at www.insurance.ca.gov; or for those without Web access, from Emmie Ponce at the address and FAX above, or by telephone at (415) 538-4103.

WEB ACCESS

A copy of this Notice, the Initial Statement of Reasons, and the Text of the proposed regulations can be obtained on the Department's Web site at www.insurance.ca.gov; or for those without Web access, from Emmie Ponce at the address and FAX above, or by telephone at (415) 538-4103.

AVAILABILITY OF RULEMAKING FILE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above San Francisco address. As of the date of publication in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

If modifications are made to the proposed text of the regulations, the modified text, with changes indicated, will be made available to the public for at least 15 days prior to the date on which the Commissioner adopts the amendments. Requests for copies of any modifications should be sent to Caitlin Smith at the address indicated above. The Commissioner will accept written comments on the modified text for 15 days after the date on which they are made available.

EFFECT ON SMALL BUSINESS

The proposed regulations may have a positive effect on small actuarial businesses. Private sector actuaries with 5 years relevant experience in long-term care insurance industry pricing may be hired by the Department.

This Notice of Proposed Rulemaking will be sent to all persons on the Department's mailing list.

File No. RH-401

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